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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/589,615

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Masaki Kaneda

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8671

31780

7590

11/09/2009

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EXAMINER

MAWARI, REDHWAN K

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,615	Applicant(s) KANEDA ET AL.	
	Examiner REDHWAN MAWARI	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/4/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This Office Action is responsive to Applicant's amendment and request for reconsideration of application 10/589,615 filed on July 02, 2009.

Applicant's request for reconsideration of the 101 and 112 2nd of the rejection of the last Office action is persuasive and, therefore, the 101 and 112 2nd of that action are withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrases "first processor component", "second processor component", "third processor component" and fourth processor component" are not disclosed in the specification nor the drawings.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-11 are rejected under 35 U.S.C. 102(b) as being as being anticipated by Morita (6,119,095).

Consider claim 1, Morita discloses a guidance route search device, the device comprising: a route point specifying unit adapted to specify multiple route points to which a user is to be guided before reaching a destination point (abstract); and a selecting unit adapted to select a guidance schedule which defines possible sequences of visiting orders for all the multiple route points by a preset time of arrival at the destination point and a staying time period at each of the route points (abstract), wherein the staying time period at each of the route points is established to have a possible maximal value within the maximum staying time predetermined for that route point (abstract);

a determination unit adapted to determine whether there is spare time other than the staying time at the route points and the traveling time among the route points; and

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an adjustment unit adapted to add a part or all of the spare time to the staying time at one or more route point, if it is determined that there is the spare time (see at least FIG. 5 and FIG. 6A-6C, col. 9, lines 52-67).

Consider claim 2, Morita discloses a guidance route search device, the device comprising: a route point specifying specifying unit adapted to specify multiple

route points to which a user is to be guided before reaching a destination point (col. 7, lines 58-67);

a temporary determination unit adapted to determine staying time periods at each of the multiple route points based on staying possible time prespecified for each route point (col. 7, lines 4-67);

a determination unit adapted to make determination about propriety of a guidance schedule in which the multiple route points are passed through, based on each of the determined staying time periods at the multiple route points and traveling time among the route points; and an adjustment unit adapted-to adjust the staying time at least

at one route point in response to the result of determination by the determination unit (col. 7, lines 4-67, col. 8, lines 1-33);

wherein the determination unit operates to determine whether there is spare time other than the staying time at the route points and the traveling time among the route points, and

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wherein if it is determined by the determination unit that there is spare time, the adjustment unit operates to add a part or all of the spare time to the staying time at one or more route point (see at least FIG. 5 and FIG. 6A-6C, col. 9, lines 52-67).

Consider claim 3, Morita discloses wherein

the determination unit operates to determine whether the guidance schedule in which the multiple route points are passed through is possible or not; and

if it is determined by the determination unit that the guidance schedule in which the multiple route points are passed through is not possible, the adjustment unit operates to reduce the staying time at least at one route point (col. 7, lines 4-67, col. 8, lines 1-33).

Consider claim 4, Morita discloses wherein the prespecified staying time is specified within the range of a trip time period from departure time of a trip for dropping into the multiple route points to time of arrival at a destination point (col. 7, lines 4-67).

Consider claim 5, Morita discloses wherein

the prespecified staying time is specified within a range of a trip time period from departure time of a trip for dropping into the multiple route points to arrival time (col. 7, lines 4-67);

Consider claim 6, Morita discloses wherein the device further comprising:

a display unit adapted to display the guidance schedule for the multiple route points adjusted by the adjustment unit (FIG.1)

an input unit adapted to operate in order to change the guidance schedule displayed on the display unit (FIG.1); and

a change unit adapted to change the guidance schedule in response to a change operation with the input unit and causing the display unit to display the changed guidance schedule (FIG.1).

Consider claim 7, Morita discloses wherein

time to start staying and/or the staying time prespecified for each route point is specified based on at least one among the route point, type of the route point, user, utilization group, time of year for utilization and user age (abstract).

Consider claim 8, 10 and 11, claims 8, 10 and 11 are rejected using the same art and rationale used to reject claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morita (6,119,095).

Consider claim 9, claim 9 is rejected using the same art and rationale used to reject claim 2. However, Morita does not explicitly disclose first, second, third, fourth processors. It would have been obvious to an ordinary skilled person in the art at the time of the invention to execute claimed steps in multiple or singles processor.

Note: Claims 1-11 include the statements of intended use or field of use,[a]"adapted to" or "adapted to" clauses, b) "operate" clauses, or c) "whereby"] clauses are essentially method limitations or statements or intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Response to Arguments

Applicant's arguments have been fully considered but are not persuasive. In particular the applicant argues:

the cited prior art does not disclose or suggest teach adjustment unit adapted to add a part or all of the spare time to the staying time at one or more route point, if it is determined that there is the spare time, either explicitly or inherently.

In response to the applicant's argument, examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Given the broadest interpretation, as claimed it is the examiner's position, the reference of record teaches what he is argued. Morita discloses the excessive or free time which is construed as the spare time (see at least FIG. 5, and FIGS 6A-6C) wherein if it is determined that there is excessive time or spare time in the travel route, an adjustment to the staying time is conducted, for example a meal and shopping is added to the schedule is part of the staying time. In view of the above, it is the examiner position what is claimed and argued are taught by the reference.

Note: Claims 1-11 include the statements of intended use or field of use,[a]"adapted to" or "adapted to" clauses, b) "operate" clauses, or c) "whereby"] clauses are essentially method limitations or statements or intended

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or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Redhwan Mawari whose telephone number is 571 270 1535. The examiner can normally be reached on 7:30 AM - 5PM Mon-Fri Eastern Alt Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached at 571-272 6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11/02/2009

/R. M./

Examiner, Art Unit 3663

/Tuan C To/

Primary Examiner

November 7, 2009